IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2974 OF 2006.

1. Shri Navnath Narayan Chandankar
2. Shri Samadhan Navnath Chandankar ..Applicants.

V/s

The State of Maharashtra ..Respondent.

Mr. U.B. Nighot for the applicants.
Mr. P.S. Hingorani A.P.P. for the State.

CORAM : S.C. DHARMADHIKARI, J.
DATE : 21ST AUGUST, 2006.

P.C.

. Heard Mr. Nighot appearing for the applicants and Mr. Hingorani, A.P.P. appearing for respondent.

2. In so far as applicant No.2 is concerned, the request for release him on bail is not being considered at this stage, but the applicant No.2 shall be at liberty to apply for bail at later stage.

3. As far as applicant No.1 is concerned along with other he has been named as accused in CR.No.7/2006, registered at Tembhurni Police Station, Tal. Mhada, Dist. Solapur. The offences alleged are under Section 302, 326, 147, 149, 323 of Indian Penal Code.

4. The complainant's family and the applicant's family had a dispute with regard to electric connection to their field. On 14th January, 2006 the complainant's father as also other family members were attacked, in which the father of the complainant succumbed to the injuries at the local hospital.

5. It is alleged by the complainant that accused were carrying iron rods, sticks and they assaulted complainant's father and others. Cross-complaints were filed even against the complainant but the statement of the complainant Waman recorded on 14th January, 2006 after referring to the disputes and quarrel name the applicant No.1 as also others. However, as far as applicant No.1 is concerned, the complainant has not named him. He was also carrying stick and therefore, in the light of the provisions of section 34, case is also made out as far as applicant No.1 is concerned.

6. Mr. Nighot submits that this is a fight between two adjoining field owners over the electricity supply to the field for agricultural operations. It is not a case where there is any other reason but because of the

grievance of electricity supply having snapped by the complainant that the episode has occurred. He submits that as far as applicant No.1 is concerned he has not been named in the assault which was carried out by others. In such circumstances, at least as far as applicant No.1 is concerned, this Court should take a lenient view.

7. After perusing the statement of Waman and annexures to the application and hearing the submissions, I am of the view that the trial court has erred in not considering the case in the light of settled principles which are to be applied while granting bail. The trial Court has made general remarks without finding out the specific role assigned to applicant No.1. Dealing with the bail applications in this manner is not at all satisfactory. It is not because the offence is serious and the victim has succumbed that bail has to be denied straight way. Gravity of the offence is one of the relevant factor but ultimately other factors also need to be considered. In such circumstances and considering that applicant No.1 and is not named in assaulting the deceased as also other family members of the complainant, he deserves to

be enlarged on bail. It is not pointed out to me that he has any antecedents or otherwise is disentitled to bail. In such circumstances, the application is partly allowed.

i) The applicant No.1 arrested in connection with CR.No. 7 of 2006 registered with Tembhurni Police Station, Tal. Mhada, Dist. Solapur shall be enlarged on bail subject to furnishing a personal bond of Rs. 10,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to the condition that the applicant No. 1 will remain present before the concerned investigating officer once in a fortnight till the conclusion of the trial.

iii) The order of bail will be given effect only after the applicant No. 1 furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant No.1 will not change his residential address thereafter till the conclusion of the trial without prior intimation to the

Investigating officer.

iv) The bail is granted subject to condition that the applicant No.1 shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant No.1 shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant No.1 to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Liberty to applicant No.2 to apply for bail at a subsequent stage.

viii) Application is disposed of in above terms.

ix) Parties to act on an authenticated copy of this order.

(S.C. DHARMADHIKARI, J.)